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08/316422

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/316,422 09/30/94 McDONALD

T 35421

DEANE, W. EXAMINER

33M1/0425

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ART UNIT PAPER NUMBER

3312

DATE MAILED: 04/25/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 02 Feb 96 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/>   |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-21 are pending in the application.  
Of the above, claims 2, 11 & 18 are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1, 3-10, 12-17 & 19-21 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

**EXAMINER'S ACTION**

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 3 - 10, 12 - 17, and 19 - 21 are rejected under 35 U.S.C. § 103 as being unpatentable over Aulgur et al. in view of Eros MAGIC quick donning mask and Levine et al. Aulgur et al teach a quick donning oxygen face mask having a flexible face seal (12 & 18) having a plurality of mounting points (Fig. 1), a means to attach a regulator (13), an inflatable harness (20), extending around a neck of a user, an adjustable strap (14), and passages between regulator and seal (Fig. 1). Therefore, it appears that Aulgur et al. teach the claimed device except for the flexible lens and the anti fog means. Levine et al teach an aviation mask with a foldable lens for stowage. (Col 4. lines 19+). Note that Eros MAGIC quick donning mask teaches anti-fog means (in the paragraph, above man trying on the mask). It would have been obvious to one of ordinary skill in the art to provide

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the mask of Aulgur et al with such a lens as taught by Eros Magic in order to protect the eyes. In addition, it would have been obvious to provide a flexible lens as taught by Levine et al. for better stowage capability. It would have been obvious to one of ordinary skill in the art to have provided the Aulgur et al. device with such anti-fog capability as taught by Eros MAGIC quick donning mask as an obvious means for keeping the lens clear. In regard to claims 3 & 12, wear it is shown that one inflatable harness is known in the art it would be obvious to one of ordinary skill in the art to have provided a plurality of such harnesses. Also note Piljay et al. (in the pertinent art). With respect to claims 4, 5, 13, 14, 20 and 21 see Col 5, lines 5+ of Aulgur et al. With respect to claim 6, and 16 abrasion resistant coating is well known in the art and such coating is widely available in any optical store. With regard to claim 7, note element #30 of Aulgur et al.

Applicant's arguments filed February 2, 1996 have been fully considered but they are not deemed persuasive to any error in the above rejections.

Any inquiry concerning this communication should be directed to Bill Deane at telephone number (703) 308-2868. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 308-2864.

WJD  
n/p  
27Oct95

  
**Vincent Miller**  
Primary Examiner